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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,826	12/05/2003	Mark E. Herrmann	R0586-701010	8536
37462 7590 02/19/2009 LOWRIE, LANDO & ANASTASI, LLP ONE MAIN STREET, SUITE 1100 CAMBRIDGE, MA 02142				
EXAMINER				
PANDYA, SUNT				
ART UNIT		PAPER NUMBER		
3714				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com
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Office Action Summary

Application No.

10/729,826

Applicant(s)

HERRMANN ET AL.

Examiner

SUNIT PANDYA

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-80 and 83-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-80, 83-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/10/08 has been entered.

Response to Amendment

This action is in response to amendments filed 11/19/08, wherein the examiner acknowledges that claims 1, 9, 70-79 & 83 have been amended, claims 4, 81 & 82 have been canceled and claims 86-89 have been newly added. Consequently, claims 1-3, 5-80, 83-89 are currently pending in the instant application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The said claims states, "...wherein the payout is not directly determined by the odds of winning with or without a fee the gaming operator", wherein

the examiner cannot comprehend what the claims is stating, and thus will be given broadest claim interpretation for the purpose of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 4-58, 66-75, 77-80, 83-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff (US Patent 6,398,645), and further in view of Weingardt (US Patent 5,727,786).

Claims 1, 8-9, 70, 78, 79, 85-89: Yoseloff teaches of a method for conducting a computer based game, the game system includes one or more players, each player associated with at least one game card having a plurality of selectable content, the method comprising acts of providing to, at least one of the one or more players, the at least one game card having a pattern (figure 2), wherein pattern includes a plurality of rows and a plurality of columns, at least one row or at least one column including a cell that contains a blank spot, a cell that contains a numbered spot, and a cell that contains a free spot (col. 5: 52-67). Yoseloff also teaches of determining prior to a game session, winning patterns. drawing the winning pattern from predetermined set of cell content (figure 2, wherein the pattern includes atleast one of the cell that contains the free spot. Yoseloff also teaches of determining if the pattern matches the winning

pattern, and determining a payout (col. 9: 10-27). As recited above Yoseloff teaches of a bingo game that teaches of atleast one row or atleast one column includes a cell that contains a numbered spot, and a cell that contains a free spot, however Yoseloff fails to teaches of a blank spot, as part of the said row or column.

In an analogous art, Weingardt, who teaches of a Bingo game method, teaches of a method of playing Bingo which includes one or more blank spots in atleast one column or row (col. 8: 22-30). It would have been obvious, for one with ordinary skill in the art at the time of the invention to have modified Yoseloff to includes one or more blank spots as well as free spot as taught by Weingardt, to allow players to easily achieve winning pattern, thus keeping player interested and consequently playing longer (col. 3: 1-9).

Claims 2, 80: Yoseloff teaches of determining the payout further comprises an act of determining the payout based upon fixed odds of winning (col. 5-6: 53-8).

Claim 3: Yoseloff teaches of determining the payout further comprises an act of determining the payout based upon variable odds of winning (col. 10-11: 67-5).

Claim 5: Yoseloff teaches of determining at least one game card unique (col. 12: 12-29, wherein each player's cards are unique and different from other players' cards).

Claims 6, 24, 83: Yoseloff teaches of a gaming session wherein the session is conducted without interaction with any players (figure 1, wherein once player wagers, and selects the playing cards, the system conducts the drawing of the numbers and everything thereon, thus not requiring any player interaction).

Claims 7, 66, 77, 84: Yoseloff teaches of providing entry of at least one player in the game using an alternative method of entry (AMOE) (col. 6: 30-66).

Claim 10: Yoseloff teaches that each game piece assigned in the game is unique (col. 5-6: 53-18).

Claims 11-18: Yoseloff teaches that every game piece includes a set of game cards having at least one of different card patterns, a winning pattern, and cell content (col. 5-6 & figure 2, wherein each game card is unique and thus contains unique number, which will result in unique cell content and thus resulting in unique winning patterns).

Claims 19-20: Yoseloff teaches of game wherein player pays with money to play (col. 6: 40-45, wherein the wager is in cash).

Claims 21-22, 36: Yoseloff teaches of permitting player to play as many session as desired (col. 11)

Claim 23: Yoseloff teaches of allowing player to play against an operator (col. 6: 59-3, wherein the operator is the computer).

Claims 25, 26, 75: Yoseloff teaches of permitting players to observe the game session (col. 6: 18-28, col. 8: 48-26, wherein the player can view the game on the gaming terminal).

Claims 27, 28: Yoseloff teaches that the payout for winning depends upon the number of winning cell content drawn before obtaining the winning pattern, thus winning decreases as the number of winning cell content drawn increases to obtain the winning pattern (it is notoriously well known in the art that payout for winning decreases

since more cell content are drawn which increases the chances of other players achieving the winning pattern and winning the game).

Claim 29: Yoseloff teaches that the payout for winning to a player is increased with a corresponding increase in payment by the player to play (col. 11: 1-6, wherein the higher the wager, the more bingo cards the player can play, thus increasing the award).

Claim 30: Yoseloff teaches that the payout to a player for winning the game is divided among each of a plurality of winning players (col. 9: 25-28, wherein all the winning cards obtain part of winning).

Claim 31: Yoseloff teaches that there may be at least one progressive jackpot (col. 12: 24-26).

Claim 32: Yoseloff teaches that the payout is not based on fees to the gaming operator (wherein Yoseloff teaches that the payout is based on the outcome and not on any other factors).

Claim 33-35: Yoseloff teaches that the payout is credit.

Claims 37-39: Yoseloff teaches of selecting the cell content randomly chosen manually (wherein the player selects the numbers on their selected cell, wherein the numbers are choose randomly).

Claims 40-41: Yoseloff teaches of determining whether any of the game cards being played attains the winning cell matching pattern and determining the payout based upon the predetermined payout table (figure 2 and description therefore).

Claims 42, 45: Yoseloff teaches of players manually daubing his or her game card (col. 2: 14-16, wherein daubing feature is notoriously well known in the art).

Claims 43-44, 46-47: Yoseloff teaches of player notifying the system when the winning patterns has been achieved and the system verifying that said winning patterns is achieved (figure 2 and the description there of).

Claim 48: Yoseloff teaches of automatically daubing the game card when the card contains the winning pattern (figure 2).

Claims 49-56, 71-74: Yoseloff teaches that the computer system displays the game has been won (col. 8-9: 63-28).

Claims 57-58, 61: Yoseloff teaches of notifying the player of winning thought the gaming kiosk (figure 1).

Claim 67: Yoseloff teaches that the game and its associated gaming sessions are played using computer system (figure 1).

Claims 68, 69: Yoseloff teaches that the cells of each of the one or more game cards is chosen randomly by a computer system (col. 6: 59-3, wherein the operator is the computer, and the said computer chosen by the computer system).

Claims 59-60, 62-63, 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff and Weingardt as applied to claim above, and further in view of Bryant (US Patent Publication 2004/0077422).

Claims 59-60, 62, 76: Combination of Yoseloff and Weingardt essentially teaches of the invention as claimed, however Yoseloff and Weingardt fails to teaches of a player to access past gaming result. In an analogous art, Bryant teaches of a gaming machine with loyalty bonus which allows players to track player's, and thus provide the capabilities to access past gaming results for players. It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified combination of Yoseloff and Weingardt to include a player tracking that allows players to track their previous gaming adventures, thus allowing players to keep an account of total wins and losses

Claims 63: Yoseloff teaches of notifying the player of winning thought the gaming kiosk (figure 1).

Claims 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoseloff and Weingardt as applied to claim above, and further in view of Torango (US Patent Publication 2002/0042297).

Claim 64-65: of Yoseloff and Weingardt essentially teaches of the invention as claimed, however Yoseloff and Weingardt fails to teach of advertising streams inserted into the display during the gaming session. In an analogous art, Torango, who teaches of a progressive wagering system, teaches of advertising clips being inserted into the display during the gaming session. It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified combination of Yoseloff and

Weingardt to include an advertising clips being inserted into the display during the gaming session (0190), thus providing the gaming system a means of revenue stream beside wagers, and thus will be able to provide player higher rewards.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-80, 83-89 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of References Cited page.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-F 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SP

/Scott E. Jones/
Primary Examiner, Art Unit 3714